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Administrator Michael Regan
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20004

**Re: Comments on the Environmental Protection Agency's listening session
"Accidental Release Prevention Requirements: Risk Management
Programs Under the Clean Air Act". (EPA-HQ-OLEM-2021-0312)**

Dear Administrator Regan,

These comments are submitted on behalf of the 850,000 members of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (United Steelworkers or USW). We appreciate the opportunity to comment on the United States Environmental Protection Agency's (EPA) listening session pertaining to the review of Risk Management Plan (RMP) regulation revisions completed since 2017, including the 2017 Final Amendments to the RMP Rule and 2019 Final RMP Reconsideration Rule.

The United Steelworkers is the largest private-sector union in North America, representing workers employed in metals, mining, rubber, paper and forestry, energy, chemicals, transportation, health care, security, hotels, and municipal governments. Our union is the primary union in the chemical and refining sectors representing approximately 30,000 workers in the petroleum and chemical industry and hundreds of thousands of men and women whose workplaces use and store large quantities of industrial chemicals. No single company, and no other union, either operates or represents the workers in more plants that are the subject of the RMP regulations than our union. USW members are aware of the potential for widespread damage and hazards to critical infrastructure and the community should an accidental release or explosion occur.

Our members are highly-skilled and highly-trained workers who operate and maintain chemical and petrochemical facilities including petroleum refineries.

Steelworker members who work at these facilities are hurt first and worst when employers and federal regulations are not strong or effective enough to prevent catastrophic releases, explosions, and double disasters brought on by climate events. Our members are also a critical component in preventing these disasters, and the first to respond when disaster strikes. It is for these reasons that the USW has been advocating for enhanced participation and involvement for employees and their representatives throughout the history of the RMP, and a particular focus on the Chemical Disaster Rule that began rulemaking in the wake of the 2013 fertilizer explosion in West, TX where 15 people were killed.

The USW appreciated the 2017 Chemical Disaster Rule, while maintaining that it did not go far enough to protect workers, communities, and our planet. We expressed this disappointment in rulemaking comments submitted on the proposed rule on May 13, 2016.¹ After issuing the final rule – published on January 13, 2017 – EPA provided a 20-month delay on implementation, which our union opposed in written comments submitted on May 19, 2017.² Regrettably, EPA under the previous administration refused to implement that rule. Our union joined others in filing suit over the delay, and won, to get the rule implemented. While that effort was in litigation, EPA began new rulemaking to strip the Chemical Disaster Rule of significant potentially life-saving improvements to the RMP. We opposed these rollbacks in written comments submitted August 23, 2018.³ The issuance of the final rule for a weakened Chemical Disaster Rule made our workplaces, communities, and environment less safe by eliminating many of the accident prevention requirements. We petitioned EPA to reconsider their rulemaking on December 19, 2019.⁴ EPA denied our petition for reconciliation.

Since the issuance of the final rule there have been a number of catastrophic disasters and near misses with two of those disasters taking place at USW represented facilities.

- On June 21, 2019 an explosion near a large amount of hydrofluoric acid (HF) storage rocked Philadelphia Energy Solutions Refinery in Philadelphia, PA.⁵ The quick reaction of USW members saved the community from even greater disaster, but because of this event, the refinery is permanently shuttered and hundreds of Steelworkers' careers came to a premature end.

¹ See appendix entry 1

² See appendix entry 2

³ See appendix entry 3

⁴ [USW Petition to Reconsider](#), December 19, 2019

⁵ [Massive Fire, Explosions at South Philadelphia Refinery Contained, But Not Yet Extinguished](#), June 21, 2019

- On November 27, 2019 an explosion occurred at the TPC Group chemical facility in Port Neches, TX, injuring 3 people, shattering windows, and damaging doors of nearby homes.⁶ A toxic fire continued to burn for over a week at the site. This site also essentially shuttered and more Steelworkers permanently lost their jobs.

These disasters are preventable. EPA has the authority, and an obligation, to issue a strengthened Chemical Disaster Rule that truly protects workers and communities. The current rule can be improved upon in several key areas:

1. Workers and Their Representatives' Involvement

Overall, the Chemical Disaster Rule does not do enough to require workers and their representatives' involvement in the prevention of catastrophic releases. Worker and representative participation is an essential component of all widely recognized management safety systems, including the American National Standard ANSI Z10. It is also a requirement under RMP's sister-standard: the Occupational Safety and Health Administration's Process Safety Management Standard. Throughout these comments, we have identified areas where the Chemical Disaster Rule lacks meaningful inclusion of workers and their representatives. It should go without saying that those employees who are included in the process should be adequately trained, paid by their employer during their work, and selected by other employees rather than management. In fact, federal law gives the authorized collective bargaining representative – i.e. the union – the exclusive right to select employee representatives.⁷

Workers and their representatives must also be free to participate without fear of retaliation for voicing an opinion or participating in the process. Similarly, the current rule requires the development of information, but does not explicitly require that it be proactively provided to affected employees and their representatives. We recommend that EPA require that facility owners and operators disseminate all information, in either paper form or via in-person training, including the incident investigations root cause analysis, third-party audit reports, process hazard analyses, safer alternatives assessments, emergency response planning, etc.

2. Root Cause Analysis for Program 2 and 3

⁶ [Massive Explosion Rips Through Texas Chemical Plant](#), November 27, 2019

⁷ [EPA guidance for compliance with the Clean Air Act Section 112\(r\)\(6\)\(L\)](#), February 11, 2011

The 2017 Chemical Disaster Rule required all facilities with Program 2 or 3 processes to conduct a root cause analysis as part of an incident investigation of a catastrophic release, or an incident that could have reasonably resulted in a catastrophic release, i.e. a near-miss. This is a provision that our union strongly supported, but was stripped in the 2019 rule. We now strongly urge the EPA to restore these requirements.

Incident investigation can be a valuable tool for learning from lagging indicators. The goal for these investigations should be to identify and correct root causes so that the event, or a similar one, cannot be repeated. Our union encourages facilities in the same company or industry to share some of those lessons learned from root cause investigations in order to prevent similar, or worse, incidents at similar facilities or processes. Root cause analysis is a best practice in incident investigation. This is evident by the mere existence and mandate of federal agencies such as the Chemical Safety Board and the National Transportation Safety Board.

However, industry should not wait to learn from an incident of the magnitude that calls for the resources of the U.S. Chemical Safety Board to investigate. Instead, much can be learned from smaller incidents and near misses. In fact, our union advocates that all facilities have a Labor-Management Health, Safety, and Environment Committee that performs this function after each accident or near miss at a facility. We urge that the provision applies to all RMP-covered facilities. We encourage EPA to require a root cause analysis even when a process or piece of equipment is being decommissioned or was destroyed by the incident. Based upon USW's extensive experience with and training in root cause analysis, we propose this definition of root cause: "Root cause means a fundamental, underlying, system-related reason why an incident occurred that identifies a correctable failure(s) in management systems or process design."

A near-miss is an unintended event which could have caused death, serious injury, or significant damage to property, but did not. The event may be an actual release of hazardous materials or energy where the main factor preventing injury or damage is luck. For example: the release of an explosive vapor cloud which dissipates before it finds a source of ignition; the event may be a potential accident which was prevented by one or more safety systems, such as the diversion of toxic gasses to a scrubber and containment tank; or, the event may be a deviation from safe practices which could have resulted in a release, such as the inadvertent storage of two incompatible chemicals next to each other. As previously stated, much can be learned from a near miss in

order to prevent a catastrophic release with serious consequences. Therefore, we are asking EPA to require a root cause analysis after each near miss.

EPA should require a prompt timeline for near-miss investigations. A timeline is required because though many facilities will comply with the requirement, some bad actors may not complete the analysis at all without a timeline. We propose that EPA require initiation of the incident investigation and root cause analysis within 48 hours after the incident or near miss, have a preliminary report completed within 90 days, and a final report within six months with the possibility of an extension for major catastrophic releases. EPA should also require a facility to include the root cause analysis as part of the incident investigation in the RMP accident history. A key to these investigations is workers and their representatives' involvement in the incident investigation process and sharing of all information and documentation. Workers who are in and around the equipment and various processes each day are best equipped to determine what precipitated the incident or near miss. EPA should include a requirement that worker and their representatives be involved in the incident investigation and root cause analysis.

We propose an addition to § 68.60(c). EPA should require that facilities have incident investigation procedures that, at a minimum, include a person with expertise in the process involved, a person with expertise in the facility's root cause analysis method, and a person with expertise in overseeing the incident investigation analysis. The investigation team should also include employees and their representatives and any applicable contractors who are involved with the work or process. Due to the value of sharing incident investigation root causes, the results of the investigation, recommended findings, and corrective actions are shared with all employees and contractors whose work assignments within the facility are relevant to the incident findings. The reports must also be shared with the employees' representative and should be retained by the facility for the life of the process, not just five years as the 2017 rule required.

These requirements should be implemented immediately.

3. Third-Party Compliance Audits for Program 2 and 3

Our union supported EPA's proposal in § 68.58 to strengthen RMP compliance by requiring independent third-party audits after an accidental release or finding of significant non-compliance that was included in 2017 rule. Unfortunately, that provision was stripped in the 2019 rule. As EPA cited in the

2017 proposed rule, these audits can be critical to protecting the most high-risk facilities. USW supports these audits after any event meeting the definition of a catastrophic release under the proposed rule. EPA should take care to ensure that these audits are valuable tools for protecting the facility and the community, rather than merely satisfying a requirement. Auditor qualifications and independence are of paramount importance. EPA should require that auditors be accredited by an auditing accreditation. An auditor should not have past relationships with the facility or facility operator and is prohibited from taking future employment with the facility for three years after completion of the audit. We encourage EPA to also prohibit contract work for the facility during those three years.

There have been numerous examples of events where EPA and CSB found that poor compliance audits were contributing factors to the severity of past chemical accidents, which may have been rectified if a third-party audit had been conducted instead of an audit conducted by in-house personnel, including:

- BP Texas City Refinery explosion and fire (Texas City, Texas, March 23, 2005) where the CSB identified a lack of rigorous compliance audits as a contributing factor.⁸
- Citgo Corpus Christi Refinery explosion and fire (Corpus Christi, Texas, July 19, 2009) where the CSB found that Citgo had never conducted a safety audit of hydrofluoric acid alkylation operations at either of its U.S. refineries with a recommendation that Citgo complete a third-party audit of all Citgo HF alkylation unit operations in the United States.⁹
- DPC Enterprises, L.P., chlorine release (Glendale, Arizona, November 17, 2003) where the CSB recommended that DPC use a qualified, independent auditor to evaluate DPC's Process Safety Management (PSM) standards and RMPs and implement recommendations.¹⁰
- Bayer CropScience, LP, explosion (Institute, West Virginia, August 28, 2008) where the CSB recommended that Bayer commission an independent human factors and ergonomics study of all Institute site PSM and RMP covered process control rooms to evaluate the human control

⁸ [BP America Refinery Explosion](#), March 20, 2007

⁹ [CITGO Refinery Hydrofluoric Acid Release and Fire](#), December 9, 2009

¹⁰ [DPC Enterprises Glendale Chlorine Release](#), February 28, 2007

system interface, operator fatigue, and control system familiarity and training.¹¹

Additionally, USW recommends that EPA require that an auditor be chosen from among accredited auditors by mutual agreement between the employer and the employee representative, if there is one at that facility. EPA should require employees and their representatives be involved in the opening conference, inspection, employee interviews, closing conference, reviewing the audit report, and assisting the employer with the schedule for addressing the deficiencies. USW urges EPA to institute a 30-day timeframe for a facility owner or operator to review the report and develop a findings response report that includes a schedule for addressing deficiencies, and that all deficiencies be corrected promptly, but in no event later than six months absent a written extension from EPA. As with the incident investigation reports, we recommend that the third-party audit reports be provided to the employee representatives and be retained by the facility for the life of the processes involved.

4. Safer Technology and Alternatives Analysis (STAA)

USW has long supported the use of STAAs and implementation of safer technology as the most effective way to prevent catastrophic releases that cause harm to the facility, its employees, and the community. After all, removing or reducing what is most likely to cause harm is the most effective preventive measure according to the hierarchy of controls. Although the current RMP rule already incorporates the hierarchy of controls with its requirements around Recognized and Generally Accepted Good Engineering Practices (RAGAGEP), the industry-wide understanding of what RAGAGEP means varies widely. The 2017 Chemical Disaster Rule STAA analysis attempted to address some of the shortcomings of RAGAGEP, including grandfathering and complying with current RAGAGEP, not RAGAGEP from the time that the process was installed.

The 2017 rule could have gone farther. It limited the STAA requirement as part of the Process Hazard Analysis (PHA) to Program 3 processes in facilities categorized under the following NAICS codes: 324 (petroleum and coal products manufacturing), 325 (chemical manufacturing), and 322 (paper manufacturing). EPA's reasoning was clear—that these industries were chosen due to their higher rate of incidents. However, EPA should consider expanding the requirement using other reasoning, such as applying it to an entire program

¹¹ [Bayer CropScience Pesticide Waste Tank Explosion](#), January 20, 2011

level, or judging the potential impact of the worst-case scenario due to the location/siting of a facility or the proximity to community members. Location/siting would be most likely to protect more community members; however, this approach could put facilities at a competitive disadvantage to other facilities in the same industry that are sited differently and are not subject to the requirement.

As with other sections of the 2017 Chemical Disaster Rule, the STAA requirement did not require employee participation. Employees have deep experience and knowledge of the processes, and are best equipped to determine Inherently Safer Technology or Design (IST/ISD). However, workers must have adequate education and training to participate in STAAs. In the 2017 Chemical Disaster Rule, it is evident that EPA considered and studied closely the IST requirements at state and local levels. USW has long supported the requirements in New Jersey and in Contra Costa County in California. We would support EPA using aspects of those programs as a model for national regulation.

We believe that the 2017 Chemical Disaster Rule missed an opportunity for important information gathering and potential lessons learned from the STAA requirements by EPA for eventual dissemination in summary form for prevention across industries or processes. As part of the RMP reporting process, facilities subject to the STAA requirement should also be required to report summary information about the STAA. Specifically, facilities should report on their feasibility analysis of each IST identified and if it was, or is planned to be, implemented. If it is not implemented, facilities should cite why they are not choosing to implement the IST by designating one or more of the following: (1) cost; (2) technical feasibility; (3) conflicts with other regulatory requirements or good practices; (4) other hazards; (5) other (indicate reason). An alternative is that they must designate infeasibility by designating one of the factors included in the definition of feasible: time, economic, environmental, legal, social, or technological.

With this same reasoning, EPA should collect information from facilities that deregister from RMP or change program levels. This could lead to valuable lessons-learned about IST preventive measures and reducing onsite quantities. It would not impose a large burden on those facilities. As with all of its rules, EPA should ensure compliance as expeditiously as possible to protect the public. For this reason, USW proposes that the implementation period for these analyses should be a modest three years.

5. Emergency Response and Field and Tabletop Exercise Requirements

Our union objected to the rescission of Chemical Disaster Rule's bolstered emergency response coordination requirements between the facility and the Local Emergency Planning Committees (LEPC) that improved information sharing under 40 CFR § 68.93, and established new requirements relating to the conduct of emergency response exercises notification exercises, field exercises, and tabletop exercises in coordination with local first responders per 40 CFR § 68.96 to address the harm posed to first responders, workers, and the public caused by poor communications from facility personnel during an RMP event. (See 82 Fed. Reg. at 4667 and 4691)

The United Steelworkers agrees with the findings in EPA's preamble to the final Chemical Disaster rule (See 82 Fed. Reg. at 4667):

[T]his approach will allow LEPCs and other local emergency officials to obtain the information they require to meet their emergency response planning needs. It will also allow local emergency planners and response officials to ask questions of facility personnel about the risks associated with the chemical hazards at the facility and about appropriate mitigation and response techniques to use in the event of a chemical release. It further allows the facility owner or operator and the LEPC to identify information that may need to be maintained securely and discuss strategies to secure the information or to provide only information that is pertinent to emergency response planning without revealing security vulnerabilities.

The LEPC or local emergency response officials may request information such as accident histories, portions of compliance audit reports relevant to emergency response planning, incident investigation reports, records of notification exercises, field and tabletop exercise evaluation reports, or other information relevant to community emergency planning. For example, this may include requesting information on changes made to the facility that affect risk such as incorporating safer alternatives.

The United Steelworkers believes that the enhanced emergency response coordination requirements set forth at 40 C.F.R. § 68.93 will improve information sharing between facility personnel and local first responders as determined by EPA in the preamble to the Chemical Disaster Rule thereby avoiding, or at a minimum mitigating, impacts to workers (including USW

members) and the public (including USW members and their families) that occur as a result of poor coordination and communication between facility personnel and local first responders under the existing regulatory scheme.

For example, an explosion occurred at the former ExxonMobil refinery in Torrance, CA (2015) where the refinery had a release after the explosion of an electrostatic precipitator. Facility personnel delayed communicating to the community and first responders the makeup of the particulate matter released after the explosion. The first responders could not determine what personal protective equipment (PPE) would be most effective for their protection, and community members were greatly confused and apprehensive as to what actions should be taken in response to the release – whether to shelter in place or evacuate.¹² Had the facility personnel been required to comply with the new coordination requirements in the Chemical Disaster Rule, they would have pre-planned communication strategy with local first responders and community members, which would have facilitated the first responders and community members' ability to effectively respond to the release and protect themselves from harm.

The United Steelworkers endorses EPA's statement in the preamble to the 2017 Chemical Disaster Rule (see 81 Fed. Reg. at 13677):

...Ensuring that communities, local planners, local first responders, and the public have appropriate chemical facility hazard-related information is critical to the health and safety of the responders and the local community... Specifically, LEPCs and first responders want to have access to the most relevant chemical hazard and risk information for their needs, in a user-friendly format, to better support planning and preparedness efforts. Community residents, operators of community facilities (such as daycares and nursing homes) and organizations consistently noted that they need basic information regarding chemical risks at facilities, presented in a clear and consistent manner, so that they can effectively participate in preparedness and planning to address such issues as effective emergency notification procedures, evacuation, and sheltering in place.

The United Steelworkers also agrees with EPA's finding in the 2017 CDR (*id.* at 13671) that "...poor communication between facility personnel and first responders, as well as poor communication between facility personnel and

¹² See appendix entry 4

communities, has been shown to contribute to the severity of chemical accidents.” In support of this statement, EPA cites to two specific examples where the facility personnel’s failure or refusal to provide critical information regarding the nature, volume, or identity of the chemicals involved, or what, if any, precautions or measures should be taken by first responders and the public to avoid or minimize exposures. These examples include the Bayer CropScience explosion that occurred in Institute, West Virginia in 2008, and the release of hydrofluoric acid from the Citgo Refinery in Corpus Christi, Texas in July 2009. The Bayer CropScience incident is a particularly illustrative example of the harm that results to workers, first responders, and the public due to poor communication between facility personnel and the aforementioned under the current RMP regulatory scheme. According to the CSB,

The Bayer fire brigade was at the scene in minutes, but Bayer management withheld information from the county emergency response agencies that were desperate for information about what happened, what chemicals were possibly involved . . . The Bayer incident commander, inside the plant, recommended a shelter in place; but this was never communicated to 911 operators. After a few hours of being refused critical information, local authorities ordered a shelter in place, as a precaution. **Improper communication between the facility and the first responders during the accident led to a delay in implementing a public shelter-in-place order for the local community, and may have resulted in toxic exposure to on-scene public emergency responders.**

The United Steelworkers endorses EPA’s findings in preamble to the proposed and final Chemical Disaster Rule that the West Texas Fertilizer fire highlighted the need for better coordination between facility personnel and local first responders (see 81 Fed. Reg. at 13671-72 and 82 Fed. Reg. at 4654). As noted in *Air Alliance Houston v. EPA*, “The West, Texas disaster involved a fire and explosion that crushed buildings and sent projectiles into neighboring communities, killing twelve first responders and two members of the public and causing \$230 million in damage.”¹³

During the West Texas Fertilizer fire, the first responders lacked knowledge of what chemicals were stored on the facility, and the potential damage associated with those chemicals if the chemicals stored on the facility were involved in a fire or other mechanism to release their energy. As a result,

¹³ [Air Alliance Houston v. EPA, No. 17-1155 \(D.C. Cir. 2018\)](#), page 8

the first responders traveled too close to the areas where the chemicals were stored at the facility putting the first responders at risk and contributing to their deaths.

EPA's efforts to discount the West, Texas disaster in seeking to delay and rescind the Chemical Disaster Rule were unfounded. The D.C. Circuit in *Air Alliance Houston v. EPA* stated in support of the Court's conclusion that EPA's promulgation of the RMP Delay rule was arbitrary and capricious:

...Contrary to EPA's statement in the Delay Rule that "the timing" of a "finding by the Bureau of Alcohol, Tobacco, and Firearms . . . that the West Fertilizer explosion was caused by arson" rather than an accident supports delay, that is not a reasoned basis for delaying the *entire* Chemical Disaster Rule. See 82 Fed. Reg. at 27,137–38. EPA cited many more incidents than just the West, Texas disaster throughout the development and promulgation of the rule. See, e.g., Chemical Disaster Rule NPRM, 79 Fed. Reg. at 44,608 ("An April 8, 2011 explosion at [a plant in] Hawaii killed five workers who were disposing of fireworks."); *id.* at 44,616 ("In October 36 2007, five contractor workers were killed [at a plant] in Georgetown, Colorado, when a fire occurred inside a tunnel . . . The CSB found that inadequate contractor safety practices and oversight contributed to the accident."); *id.* at 44,618 (citing the "CSB's findings concerning a lack of rigorous compliance audits in the 2005 BP Texas City Refinery explosion" that killed fifteen plant workers); Chemical Disaster Rule, 82 Fed. Reg. at 4599 (citing, in a section titled "Events Leading to This Action," "[i]n addition to the tragedy . . . in West, Texas," "an explosion and fire at the Tesoro Refinery in Anacortes, Washington," a fire "at the Chevron Refinery in Richmond, California," and "a fire and explosion at Williams Olefins in Geismar, Louisiana."). Even were the court to agree for purposes of argument that the cause of the West, Texas disaster being arson is relevant to some of the accident-prevention provisions of the Chemical Disaster Rule, it is irrelevant to the emergency-response and information-sharing provisions, including those that have indisputably been delayed from the original March 14, 2018 effective date. Given that twelve of the fifteen fatalities in the West, Texas disaster were local volunteer firefighters and other first responders, this would be a fairly weak explanation for delaying provisions that EPA previously determined would help keep first responders safe and informed about emergency-response planning.¹⁴

¹⁴ *Ibid.*, page 35-36

In addition, a series of recent high profile events, including the fire and explosions from the bursting of containers with highly flammable organic peroxides produced at the Arkema Chemical plant in Crosby, Texas in the wake of Hurricane Harvey, highlight the harm to first responders and the public (including USW members and their families) that result from poor communication and coordination between facility personnel, first responders, and the public under the current RMP regulatory scheme.

The delay in implementing the enhanced availability of information for local first responders within the Chemical Disaster Rule harms, and will continue to harm, USW members who work at chemical and petrochemical facilities including refineries, and their families who live in close proximity to these facilities. As stated in *Air Alliance Houston v. EPA*, “Even if the only tangible impact of the Delay Rule were delay of the Chemical Disaster Rule’s first-responder provisions, the potential harm to members of United Steelworkers is alone sufficient to provide standing to Community Petitioners.”¹⁵

The United Steelworkers urges EPA to again require enhanced LEPC coordination and information sharing requirements and implement these requirements as expeditiously as practicable in accordance with section 112(r)(7) of the CAA particularly in light of the *Air Alliance Houston v. EPA* decision.

The United Steelworkers also objected to EPA’s rescission of the modest mandatory field exercise requirements and relax the tabletop exercise requirements set forth in the Chemical Disaster Rule at 40 CFR § 68.96. Tabletop and field exercises are critical for an effective preparedness program. USW, therefore, urges EPA to require the field and tabletop exercise requirements at 40 CFR § 68.96 within the Chemical Disaster Act and implement these requirements as expeditiously as practicable in accordance with section 112(r)(7) of the CAA particularly in light of the *Air Alliance Houston v. EPA* decision.

6. Agency Coordination and Lists of Regulated Substances

EPA has historically failed at coordinating with other agencies, but now has the opportunity to take advantage of this going forward with new

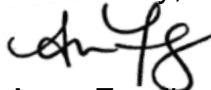
¹⁵ [Ibid](#), page 16

rulemaking. EPA has not updated the list of regulated substances despite the multiple rulemakings and Executive Orders aimed to reduce the burden of compliance by improving coordination in regulations and operations between EPA and its RMP standard, OSHA and its PSM Standard, and the Department of Homeland Security and its Chemical Facility Anti-Terrorism Standards (CFATS) Program. Each agency has a different list of covered substances and every effort should be made to harmonize those lists. Currently, too many dangerous chemicals are not listed and therefore not reportable under RMP. For example, reactive chemicals are not included under RMP and were not proposed as an addition in the 2017 rulemaking, despite a Chemical Safety Board recommendation and widespread public support to do so. We strongly urge EPA to update the list of regulated substances, and to include a section requiring that facilities evaluate the risk of a reactive chemical accident and take appropriate measures, even if the chemicals in question are not on the list.

If we continue as we are under the current regulatory scheme without the benefit of a strengthened Chemical Disaster Rule, the frequency and magnitude of catastrophic explosions at chemical and petrochemical plants will not decrease, the volume of hazardous pollutants released into the atmosphere during and after these events will not be reduced, and the harm to United Steelworker members and their families from these events, including acute and chronic impacts due to chemical releases, will not be addressed.

The United Steelworkers thanks EPA for the opportunity to comment during this public listening session. We don't have to choose between good jobs and a safe environment – we can achieve both. We hope that the rulemaking process will begin soon in accordance with Executive Order 13990 and that it will be a more ambitious step forward in better protecting workers, the community, and our planet under the Risk Management Program.

Sincerely,



Anna Fendley

Director of Regulatory and State Policy

USW Appendix

The following documents are attached to the USW's comments and are to be incorporated into the administrative record in their entirety for EPA's consideration:

1. USW Rulemaking Comments submitted by Holly R. Hart (Legislative Director) to EPA Administrator McCarthy (May 13, 2016).
2. USW Rulemaking Comments submitted by Holly R. Hart (Legislative Director) to EPA Administrator Pruitt (May 19, 2017).
3. USW Rulemaking Comments submitted by Roxanne Brown (Legislative Director) to EPA Acting Administrator Wheeler (August 23, 2018).
4. Declaration of Kim Nibarger (USW Oil Sector Bargaining Chair) (October 25, 2017).